

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

---

IN RE: NEW ENGLAND COMPOUNDING  
PHARMACY, INC. PRODUCTS LIABILITY  
LITIGATION

This Document Relates to:  
All Cases

---

)  
)  
)  
) MDL No.: 1:13-md-2419-FDS  
)  
)  
)

**[PROPOSED] SUPPLEMENTAL ORDER GRANTING CHAPTER 11  
TRUSTEE’S MOTION TO TRANSFER PERSONAL INJURY TORT  
AND WRONGFUL DEATH CASES TO THIS COURT PURSUANT  
TO 28 U.S.C. §§ 157(b)(5) AND 1334 AND ESTABLISHING  
PROCEDURES FOR SUBSEQUENT REMOVAL OF CASES**

Upon consideration of the Chapter 11 Trustee’s renewed and supplemental motion (the “Motion”) to transfer to this Court additional personal injury tort and wrongful death cases pursuant to 28 U.S.C. §§ 157(b)(5) and 1334 (Docket # 732), and the memorandum in support thereof (the “Memorandum”); and the Court having found that notice of the Motion is proper; and it further appearing that the relief requested in the Motion is in the best interests of the Debtor, its estate, creditors, claimants and other parties-in-interest; and after due deliberation and sufficient cause appearing thereof, it is hereby

1. **ORDERED**, that, for the reasons set forth in this Court’s memorandum of decision (the “Memorandum of Decision”), dated May 15, 2014, (Docket #1131), the Motion is granted effective as of May 15, 2014; and it is further

2. **ORDERED**, that, pursuant to 28 U.S.C. § 157(b)(5), the personal injury and wrongful death cases identified on Exhibit A attached hereto (the “Pending Actions”) are removed and transferred to this Court from the courts in which they are currently pending; and it is further

3. **ORDERED**, that, pursuant to 28 U.S.C. § 157(b)(5), the clerk of the respective court for each of the Pending Actions (the “Pending Court”) shall transfer the case file pertaining to the respective Pending Action to the Clerk of the District Court for the District of Massachusetts promptly upon the filing of a notice of removal and transfer of the Pending Action along with a copy of this Order; and it is further

4. **ORDERED**, that a Notice of Removal and Transfer, pursuant to 28 U.S.C. § 157(b)(5), of each of the Pending Actions, substantially in the form of Exhibit B hereto, and a copy of this Order shall be filed in the respective Pending Court and provided to all parties in interest in each of the Pending Actions; and it is further

5. **ORDERED**, that plaintiffs, defendants and their counsel are directed promptly to take any and all actions necessary to immediately effectuate the transfer of the Pending Actions pursuant to this Order; and it is further

6. **ORDERED**, that this Order shall not modify or in any way affect the automatic stay that applies to the Pending Actions under 11 U.S.C. § 362 and which shall remain in full force and effect pending further Order of this Court or the Bankruptcy Court; and it is further

7. **ORDERED**, that this Order is entered without prejudice to any position that the Trustee may take regarding whether 11 U.S.C. §§ 105 and 362 operate to stay any Pending Action or to render null and void the post-petition filing of any Pending Action.

Dated: May \_\_, 2014  
Boston, Massachusetts

---

Judge Rya W. Zobel  
United States District Court Judge

**EXHIBIT A**

**Pending Actions To Be Transferred to United States District Court for District of  
Massachusetts Pursuant to 28 U.S.C. § 157(b)(5)**

**EXHIBIT A**

The following is a list of the Pending Actions transferred to the United States District Court for the District of Massachusetts, pursuant to 28 U.S.C. § 157(b)(5):

<b><u>Case</u></b>	<b><u>Docket No.</u></b>	<b><u>Filed</u></b>	<b><u>Court</u></b>
1. <i>Sharon Wingate, Executor of the Estate of Douglas Gray Wingate, Deceased, v. Insight Health Corp., et al.</i>	CL12002547	12/27/2012	Roanoke City Circuit Court
2. <i>Trudy R. Epperly v. Insight Health Corp., et al.</i>	CL12002571	12/28/2012	Roanoke City Circuit Court
3. <i>James Wirt Smith v. Insight Health Corp., et al.</i>	CL12002572	12/28/2012	Roanoke City Circuit Court
4. <i>Pauline R. McFarlane v. Insight Health Corp., et al.</i>	CL12002573	12/28/2012	Roanoke City Circuit Court
5. <i>Chester T. Kalinoski v. Insight Health Corp., et al.</i>	CL12002574	12/28/2012	Roanoke City Circuit Court
6. <i>Barbara J. Filson v. Insight Health Corp., et al.</i>	CL12002575	12/28/2012	Roanoke City Circuit Court
7. <i>Dana Marlene Bradley v. Insight Health Corp., et al.</i>	CL12002576	12/28/2012	Roanoke City Circuit Court
8. <i>Zachary Lucas Foutz, a Minor, by His Parents and Next Friends, Benjamin T. Foutz and Andrea L. Foutz v. Insight Health Corp., et al.</i>	CL13000009	1/2/2013	Roanoke City Circuit Court
9. <i>Richard A. Whitlow v. Insight Health Corp., et al.</i>	CL13000054	1/7/2013	Roanoke City Circuit Court
10. <i>Robert Earl Harris, Jr. v. Insight Health Corp., et al.</i>	CL13000055	1/7/2013	Roanoke City Circuit Court
11. <i>Randolph E. Smith v. Insight Health Corp., et al.</i>	CL13000057	1/8/2013	Roanoke City Circuit Court

<u>Case</u>	<u>Docket No.</u>	<u>Filed</u>	<u>Court</u>
12. <i>Julian Delano Holbrook v. Insight Health Corp., et al.</i>	CL13000370	2/11/2013	Roanoke City Circuit Court
13. <i>Ronald T. Courtney v. Insight Health Corp., et al.</i>	CL13000417	2/15/2013	Roanoke City Circuit Court
14. <i>Chance Everett Baker v. Alaunus Pharmaceutical., LLC, et al.</i>	CL13000451	2/21/2013	Roanoke City Circuit Court
15. <i>Ferman W. Wertz v. Alaunus Pharmaceutical., LLC, et al.</i>	CL13000452	2/21/2013	Roanoke City Circuit Court
16. <i>Patrick O. Johnston v. Alaunus Pharmaceutical., LLC, et al.</i>	CL13000453	2/21/2013	Roanoke City Circuit Court
17. <i>Ronald A. Brown v. Insight Health Corp., et al.</i>	CL13000538	3/1/2013	Roanoke City Circuit Court
18. <i>Robert Dana Bender, Executor of the Estate of Ralph James Irace, Jr., Deceased v. Insight Health Corp., et al.</i>	CL13000577	3/6/2013	Roanoke City Circuit Court
19. <i>Odessa M. Shuck v. Insight Health Corp., et al.</i>	CL13000584	3/7/2013	Roanoke City Circuit Court
20. <i>Rose M. White v. Insight Health Corp., et al.</i>	CL13000606	3/8/2013	Roanoke City Circuit Court
21. <i>Patricia S. Brown, et al. v. Insight Health Corp., et al.</i>	CL13000607	3/8/2013	Roanoke City Circuit Court
22. <i>Sandra F. Artis v. Insight Health Corp., et al.</i>	CL13001105	5/10/2013	Roanoke City Circuit Court
23. <i>Nora Bell, et al. v. Insight Health Corp., et al.</i>	CL14000531	3/13/2014	Roanoke City Circuit Court
24. <i>Gladys G. Austin, et al. v. Insight Health Corp., et al.</i>	CL14000532	3/13/2014	Roanoke City Circuit Court
25. <i>William L. Neal, Administrator of the Estate of Lucy Byrd Neal v. Insight Health Corp., et al.</i>	CL14000533	3/13/2014	Roanoke City Circuit Court

<u>Case</u>	<u>Docket No.</u>	<u>Filed</u>	<u>Court</u>
26. <i>Lisa A. Agnew, et al. v. Insight Health Corp., et al.</i>	CL14-922	5/6/2014	Roanoke City Circuit Court
27. <i>Tosha Andrews, Administrator of the Estate of Sara D. Culp a/k/a Sara D. Andrews, Deceased v. Insight Health Corp., et al.</i>	CL14-923	5/6/2014	Roanoke City Circuit Court
28. <i>Sharon W. Bishop, Executor of the Estate of Kathy W. Sincliar, Deceased v. Insight Health Corp., et al.</i>	CL14-921	5/6/2014	Roanoke City Circuit Court
29. <i>Debra P. Buchanan, Executor of the Estate of Jean R. Parsons, Deceased v. Insight Health Corp., et al.</i>	CL14-925	5/6/2014	Roanoke City Circuit Court
30. <i>Tamela M. Miller, Executor of the Estate of Sydney M. Creasy, Deceased v. Insight Health Corp., et al.</i>	CL14-924	5/6/2014	Roanoke City Circuit Court

**EXHIBIT B**

**Form of Notice of Removal and Transfer**



UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND COMPOUNDING PHARMACY, INC. PRODUCTS LIABILITY LITIGATION	)	Docket No. _____ (Related to Docket No. 1:13-md-2419-FDS)
	)	NOTICE OF REMOVAL AND TRANSFER PURSUANT TO 28 U.S.C. § 157(b)(5)
	)	(Transferred from: [NAME OF STATE COURT AND STATE COURT CASE NO.] )

In accordance with the Memorandum of Decision, entered on May 14, 2014 and the Order entered on **[DATE]** by the Honorable Rya W. Zobel, Judge, United States District Court for the District of Massachusetts (the “Order”), notice is hereby given as follows:

1. Pursuant to 28 U.S.C. § 157(b)(5), this case is removed and transferred from the [NAME OF STATE COURT], Case No. [STATE COURT CASE NUMBER] (the “State Court Action”) to this Court. A copy of the Order is attached as Exhibit A.

2. A Notice of Filing of Notice of Removal and Transfer Pursuant to 28 U.S.C. § 157(b)(5) is being filed promptly with the Clerk of Courts in the State Court Action and provided to all parties of record.

3. The Clerk of Court in the State Court Action is directed promptly to transfer the entire court case filed pertaining to this action to the Clerk of the District of Massachusetts upon the filing in the State Court Action of a Notice of Filing of Notice of Removal and Transfer Pursuant to 28 U.S.C. § 157(b)(5).

For the foregoing reasons, this action is hereby removed and transferred from the  
[NAME OF STATE COURT] to this Honorable Court.

Dated: [DATE OF REMOVAL]  
[LOCATION]

Respectfully submitted,

---

[REMOVING COUNSEL]

Attorneys for [REMOVING DEFENDANT]